

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 FEA-01 ACDA-07 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02

INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06

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TO SECSTATE WASHDC PRIORITY 8766

C O N F I D E N T I A L USUN 3339

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: BILATERAL WITH SOVIET UNION ON DISPUTE SETTLEMENT

1. US DISPUTE SETTLEMENTS REPS MET AUGUST 17-18 WITH USSR
COUNTERPARTS TO DISCUSS DISPUTE SETTLEMENT KEY ISSUES.

2. USSR REPS INDICATED IN MOST FORCEFUL TERMS THEY
WOULD NOT RPT NOT SUPPORT ANY COMPULSORY DISPUTE
SETTLEMENT PROCEDURES UNLESS ACCOMMODATION OF THEIR
POSITION INHERENT IN ART. 9, PARA 1 OF PART IV (CHOICE OF
FORUM) IS RETAINED. THEY SAID THEY WOULD SUPPORT ONLY AN
OPTIONAL PROTOCOL IN PLACE OF PART IV IF SPECIAL PROCEDURES
CONTAINED IN ANNEX II WERE EXCLUDED, OR IF SEPARATE SEABED
TRIBUNAL CONTAINED IN PART I (WHICH THEY REGARD AS A FIFTH
SPECIAL PROCEDURE) WERE MERGED WITH PART IV LOS TRIBUNAL.
THEY EMPHASIZED THAT IT IS TOTALLY UNACCEPTABLE FOR ONE
TRIBUNAL TO HAVE JURISDICTION OVER DEEP SEABED AND QUOTE
EVEN ONE DROP OF WATER ABOVE IT. UNQUOTE. USSR REPS RECALLED
THAT THEIR SUPPORT OF ANY COMPULSORY JURISDICTION IS A
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DIFFICULT SHIFT OF ATTITUDE FOR THEM, AND THAT THERE

REMAIN MANY IN MOSCOW WHO WOULD BE HAPPY TO SEE AN
OPTIONAL PROTOCOL.

3. ON ARTICLE 18, PART IV, US AND SOVIET VIEWS VERY
SIMILAR IN SEEKING MAXIMUM DISPUTE SETTLEMENT RELATING
TO ECONOMIC ZONE. DIFFERENCES ARISE IN ART. 18,
OPTIONAL EXCEPTIONS. SOVIETS WISH TO DELETE
PROVISO IN PARA 2(A) SO THAT STATES HAVE THE
OPTION TO AVOID ANY COMPULSORY JURISDICTION FOR
MARITIME BOUNDARY DISPUTES, WHILE US WISHES TO RETAIN
PROVISO. SOVIETS PROPOSED REVISION OF ART. 18, PARA
2(C) INVOLVING THE SECURITY COUNCIL EXCEPTION AS
FOLLOWS: QUOTE DISPUTES IN RESPECT OF WHICH THE
SECURITY COUNCIL OF THE UNITED NATIONS EXERCISES THE
FUNCTIONS ASSIGNED TO IT BY THE CHARTER OF THE UNITED
NATIONS. UNQUOTE.

4. REGARDING SECURITY COUNCIL EXCEPTION, US REP
QUESTIONED WHETHER THE USE OF QUOTE EXERCISES UNQUOTE,
AS OPPOSED TO QUOTE IS EXERCISING UNQUOTE IS OF
CONSEQUENCE IN SOVIET VIEW. (LATTER FORMULATION WAS
USED IN GENEVA SNT AND IN ARTICLE 12 OF THE CHARTER.)
USSR REP SAW NO DIFFERENCE BUT, UPON REFLECTION,
THOUGH THE PROCEDURE SHOULD BE ELABORATED. THEY
INTEND THAT DISPUTE BE EXCLUDED FROM CDS SO LONG AS
IT IS ON THE AGENDA OF THE SECURITY COUNCIL,
AND THAT THE SECURITY COUNCIL WOULD HAVE TO ACT BOTH
TO PUT IT ON THE AGENDA AND TO TAKE IT OFF.
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